Supreme Court, U.S.
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No. 06-903

In the Supreme Court of the United States

CYNTHIA LEE,

Petitioner,

v.

SYLVIA HAYDASH,

Respondent.

On Petition for a Writ of Certiorari to the Virginia State Supreme Court

SUPPLEMENTAL BRIEF OF PETITIONER

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SUPPLEMENTAL BRIEF FOR PETITIONER

Pursuant to Rule 15.8, a supplemental brief can be filed at any time to call attention to new cases or other intervening matter not available at the time of the party's last filing. Petitioner respectfully submits this Supplemental Brief in order to address an intervening decision made by this Court that was not available in time to be addressed in Petitioner's Writ of Certiorari.

Cunningham v. California No. 05-6551 was decided January 22, 2007. The Plaintiff in this case was tried and convicted of continuous sexual abuse of a child under 14. The trial judge sentenced Cunningham to the maximum penalty of 16 years. In the case presented to this Court, Cunningham argued that the trial judge violated his Sixth and Fourteenth Amendment Rights by sentencing him to the maximum number of years without a trial by jury as stated in the Sixth Amendment which proclaims that, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed..." and as stated in the Fourteenth Amendment which declares that, "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

This Court found in favor of the Petitioner stating that "Fact finding to elevate a sentence from 12 to 16 years, this Court's decisions make plain, falls within the province of the jury employing a beyond-a-reasonable-doubt standard, not the bailiwick of a judge determining where the preponderance of the evidence lies."

The ruling in *Cunningham v. California* sets a precedence for the posture this Court takes in its attempt to ensure that every citizen, be they a convicted rapist, public figure or private citizen, receive due process and equal protection of the laws.

Petitioner Cynthia Lee is a private citizen of the United States of America therefore deserving of the same due process and equal protection of the laws as acquired by Cunningham. In the instant case, Petitioner alleges that Respondent Sylvia Haydash tortuously interfered with her employment with a private contractor and county agency; that she conspired to ensure her continued wrongful discharge and that Respondent's efforts to bring about Petitioner's permanent discharge by writing the March 29, 2004 letter were malicious, intentional, and ruthless with reckless disregard of the truth. Petitioner's allegations do indeed state a basis for a claim of Defamation Per Se.

This Court has declared that the state of Virginia has a profound interest in protecting Petitioner's right to contradict lies maliciously told to ruin her reputation as a "good" therapeutic foster parent and to deprive her of the position.

"The first remedy of any victim of defamation is self-help - using available opportunities to contradict the lie or correct the error and thereby to minimize its adverse impact on reputation. Public officials and public figures usually enjoy significantly greater access to the channels of effective communication and hence have a more realistic opportunity to counteract false statements than private individuals normally enjoy. Private individuals are therefore more vulnerable to injury, and the state interest in protecting them is correspondingly greater." *GERTZ v. ROBERT WELCH, INC.*, 418 U.S. 323 (1974).

The ruling in *Rosenblatt v. Baer*, 383 U.S. 75 (1966) has set a mandate for this Court to recognize and rule on cases brought to its attention in which a citizen's dignity has been stripped away by a journalist, public figure or by a private citizen. It has been proclaimed by this court that "The right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt reflects no more than our basic concept of the essential dignity and worth of every human being - a concept at the root of any decent system of ordered liberty. The protection of private personality, like the protection of life itself, is left primarily to the individual States under the Ninth and Tenth Amendments. But this does not mean that the right is entitled to any less recognition by this Court as a basic of our constitutional system." This Court has also recognized that "Society has a pervasive and strong interest in preventing and redressing attacks upon reputation." *ROSENBLATT v. BAER*, 383 U.S. 75 (1966) Section III paragraph - 5.

IN CONCLUSION Petitioner Cynthia Lee deserves "Due Process" and "Equal Protection of the Law". In order for her to obtain the same rights that are promised to ALL United States Citizens, Petitioner must be granted a trial by jury. The recent decision made in *Cunningham v. California* and the previous decisions found in *Gertz* as well as *Rosenblatt* have set precedence for the decision that must be made in *Lee v. Haydash* No. 06-903. The decision and order of this Court as it relates to *Lee v. Haydash* is mandated to be nothing less than REVERSE and REMAND.

Respectfully submitted,

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